IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15968 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? **1 to 5 NO**

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ROHITKUMAR MULJIBHAI PARMAR - Petitioner(s)
Versus
STATE GOVERNMENT & 3 - Respondent(s)

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Appearance :
MR SP MAJMUDAR for Petitioner(s):1,MR YJ PATEL for Petitioner(s) : 1,
MS ARCHANA RAVAL ASSTT GOVERNMENT PLEADER for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 11/08/2006

ORAL JUDGMENT

1. Rule. The learned A.G.P. appearing for the respondents waives service of Rule. By consent of the learned counsel, the petition was taken up for final hearing today.

2. The petitioner has invoked Articles 14, 16, 21, 226 and 227 of the Constitution for the direction to the effect that the respondent authorities may permit the petitioner to appear in the departmental examination for the post of Police Sub Inspector (Unarmed Category) Class-III. The respondents have not filed any affidavit-in-reply.

3. According to the petition, the petitioner, a Head Constable promoted to the post of Intelligence Officer, was sent on deputation to Bhavnagar in Intelligence Bureau. The examinations for the post of Police Sub Inspector (Unarmed Category) Class-III are held by the respondents and the eligible candidates, like the petitioner, were required to submit their applications latest by 15.6.2006. The petitioner filled in the necessary forms and paid the necessary fees, but gave well in time the application to respondent No.3, i.e. Additional Director General of Police, instead of sending it to the Deputy Superintendent of Police, Surendranagar. Even as the office of the Additional Director General of Police forwarded the application to the proper office, it was received there one day after the prescribed date of 15.6.2006. Only on that ground, the petitioner was denied the opportunity of appearing in the examination which is now held on 19.8.2006.

4. In the above facts, it appears to be a *bona fide* mistake on the part of the petitioner that the application was sent, though well in time, to a wrong

office and, subsequent to that, forwarding of the same and receipt by the proper office was not in the hands of the petitioner. Therefore, the petition is required to be allowed so that the petitioner is not deprived of his opportunity to appear in the examination for promotion to a higher post. Accordingly, the petition is allowed with the direction that the petitioner shall be allowed to appear in the departmental examination for the post of Police Sub Inspector (Unarmed Category) Class-III which is held on 19.8.2006 or on such other date as the examination may be postponed. The respondents shall carry out the necessary formalities for that purpose. Rule is made absolute accordingly with no order as to costs. **Direct service is permitted today.**

5. The learned A.G.P. is directed to inform the authorities concerned about this order. A copy of this order shall also be made available to the learned A.G.P. today.

Sd/-

(D.H.WAGHELA, J.)

(KMG Thilake)